IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO.4459 OF 2006

Dhiraj Suryakant Jadhav ...Petitioner.
V/s.
Mumbai Municipal Corporation ...Respondent.

Mr. Balkrishna D. Joshi with Ms. P.N.Diwan for the Petitioner.

CORAM: B.H.MARLAPALLE &
J.H.BHATIA, JJ.
DATE : 5th December, 2006.

P.C.:

1. Heard Mr.Joshi, the learned counsel appearing on behalf of the petitioner. Perused affidavit-in-reply filed by Shri Ahmed Abdulla Shaikh, Deputy Chief Security Officer of the Respondent No.1-Corporation.

2. Petitioner's grievance in this petition filed under Article 227 of the Constitution of India pertains to his non selection for the post of Security Guard under the respondent no.1. As per the petitioner, he is a candidate belonging to the Vimukta Jati (A) and he had appeared for physical test for the second time on 18th April, 2006. On the same date and at the same place, the oral interview was conducted and he appeared for oral interview as he had passed in physical test. He alleges that his name did not appear in the selected candidates' list because he failed to produce non creamy layer certificate during the course of the oral

interview and hence, this petition.

3. The affidavit-in-reply states that an advertisement was released inviting applications for the post of Security Guards alongwith some other posts and it was published in one of the leading Marathi newspapers ('Loksatta') on 21-8-04. All the applications so received were handed over to the Institute of Banking Personal Services and the said agency scrutinised them and subsequently, the entire process of selection, i.e., the physical test and oral interviews were conducted by the said agency and based on merits, the select list was prepared. In October, 2005, 851 candidates were called by the I.B.P.S. for physical and oral test and only 95 of them were selected. Merit list of the selected candidates was prepared by the I.B.P.S. The second chance was given to the candidates who had failed in running test in October, 2005 and they were recalled and a fresh test was conducted in April, 2006 wherein 758 candidates appeared. In the second round, 214 candidates were declared selected as per the merit list finalised by the I.B.P.S. A copy of the merit list is annexed to the affidavit-in-reply and the present petitioner's name does not appear in the said list. From the merit list, it is clear that 120 marks were reserved for physical

test and 15 marks were reserved for oral test. Merit list was prepared for a total of 135 marks and the said merit list is in respect of the reserved category candidates like ST, VJ (A), NT(B), NT(C), NT(D) and SBC. It is evident that the petitioner could not score marks so as to place himself in the merit list of 214 candidates. He contentions that he was not allowed to appear for the oral test on his failure to submit the creamy layer certificate can not be accepted and affidavit-in-reply clearly states that the petitioner was not selected in the first round and also in the second round. Under these circumstances, the select list of 95 candidates and 214 candidates does not call for any interference so as to incorporate the name of the petitioner in the same.

4. However, if the selection process in the third round in respect of the available posts of Security Guards is undertaken in future, obviously a fresh opportunity will be given to the petitioner for the vacancies available for VJ(A). Affidavit-in-reply has clarified in respect of the two names, i.e., Nilesh Bhola Gaikwad and Vinod Bhagwan Gosavi stated by the petitioner in his petition memo. Save and except the above clarifications, the petition stands rejected.

(J.H.BHATIA,J.) **(B.H.MARLAPALLE,J.)**